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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN JOSE DIVISION**

TEVA PHARMACEUTICALS USA, INC.,

Plaintiff,

vs.

CORCEPT THERAPEUTICS, INC., et al.,

Defendants.

Case No. 5:24-cv-03567-BLF

Honorable Beth Labson Freeman

**DEFENDANTS' ADMINISTRATIVE  
MOTION AND [PROPOSED] ORDER TO  
CONTINUE INITIAL CASE  
MANAGEMENT CONFERENCE**

1 Pursuant to Civil Local Rule 7-11, Defendants Corcept Therapeutics, Inc. and Optime Care  
2 Inc. (collectively “Defendants”) respectfully move for an order continuing the Initial Case  
3 Management Conference in this matter.

4 On June 25, 2024, the Court set the Initial Case Management Conference in this matter for  
5 October 31, 2024, which in turn set the deadline for the parties’ initial Rule 26(f) conference as  
6 October 10. Dkt. 14; *see* FED. R. CIV. P. 26(f)(1). On August 26, Defendants moved to dismiss Teva’s  
7 complaint and simultaneously sought stays of discovery pending the resolution of its motion to  
8 dismiss. Dkt. 34-37. In their motions to dismiss and accompanying motions to stay, Defendants  
9 identified multiple, potentially dispositive infirmities in Teva’s case that more than justified a limited  
10 stay of burdensome antitrust discovery while the Court evaluated whether Teva stated any viable  
11 claims. On September 9, Teva filed an opposition to the motion to stay discovery that indicated it  
12 intended to oppose Defendants’ motions to dismiss, rather than amend its complaint. Dkt. 38.  
13 Defendants’ reply briefs in support of their motions to stay were due on September 16. *See* Civil  
14 Local Rule 7-3.

15 Nevertheless, on September 13—the last business day before briefing on Corcept’s motion to  
16 stay was set to complete—Teva filed an amended complaint, thus voiding Defendants’ pending  
17 motions. Dkt. 39, 40. Teva’s late-filed amendment made only minor changes to its complaint,  
18 including removing certain demonstrably false allegations that Defendants had brought to Teva’s  
19 attention almost three weeks prior, but otherwise making only minor changes to the remainder of the  
20 allegations. Teva’s amendment did not address any of the fundamental infirmities Defendants raised  
21 in their motions to dismiss, and, if anything, only introduced new arguments for dismissal.

22 The timing of Teva’s amendment appears intended to delay a ruling on Defendants’ motions  
23 to stay discovery until after the October 10 deadline for the parties’ Rule 26(f) conference. By  
24 delaying the Court ruling until after the Rule 26(f) conference, Teva apparently hopes to begin seeking  
25 burdensome and competitively sensitive discovery (regardless of the viability of its claims and the  
26 other equitable bases for staying discovery) before the Court has an opportunity to rule on any motion  
27 to stay discovery.

28 Defendants intend to file a renewed joint motion to dismiss and renewed motion to stay

1 discovery pending that dismissal motion. However, given Teva's tactically-late-filed amended  
2 complaint, it is no longer possible for the Court to rule on Defendants' motion to stay before the  
3 October 10 Rule 26(f) deadline, nor the corresponding case management report and initial disclosures,  
4 each then due by October 24, 2024. That is particularly true because Teva's counsel has requested  
5 that Defendants agree to a hearing on the dismissal motions in late February 2025, in order to  
6 accommodate one of Teva's core attorneys' parental leave. Defendants are more than fine with that  
7 request due to basic professionalism and humanity. However, their willingness to accommodate such  
8 an important life event does not mean they should have to endure three months of sprawling and  
9 ultimately futile antitrust discovery due to their flexibility. Thus, in order to allow the Court a full  
10 opportunity to rule on Defendants' motion to stay discovery and thereby avoid unnecessary disputes  
11 prompted by Teva's tactics, Corcept respectfully requests that the Court continue the Initial Case  
12 Management Conference currently set for October 31, which will in turn adjust the deadline for the  
13 parties' Rule 26(f) conference. *See* FED. R. CIV. P. 26(f)(1).

14 As for the specific date, Defendants believe the Court should continue the Initial Case  
15 Management Conference for as long as the Court deems proper. Under the parties' stipulated briefing  
16 schedule, *see* Dkt. 42, Defendants will submit their renewed motion to stay discovery concurrently  
17 with their renewed motion to dismiss on October 14, which will result in the parties completing  
18 briefing on the motion to stay on November 4. Depending on the Court's preferences, that would  
19 mean that an Initial Case Management Conference in December or January may provide enough time  
20 to assess the parties' submissions and decide whether the Court believes a stay is warranted.  
21 Defendants also do not object to a February 2025 Initial Case Management Conference, on the same  
22 date as the motion to dismiss hearing.

**[PROPOSED] ORDER**

IT IS SO ORDERED. The Initial Case Management Conference scheduled for October 31, 2024 is hereby continued. The Initial Case Management Conference will instead be held on

\_\_\_\_\_.

DATED: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Beth Labson Freeman  
United States District Judge

1 DATED: September 18, 2024

2  
3 By: /s/ Robert W. Stone

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1 **CIVIL LOCAL RULE 5-1 ATTESTATION**

2 I, Robert W. Stone, am the ECF user whose credentials were utilized in the electronic filing  
3 of this document. In accordance with Civil Local Rule 5-1(i)(3), I hereby attest that concurrence in  
4 the filing of this document has been obtained from each of the signatories listed above.

5  
6 DATED: September 18, 2024

7  
8 By /s/ Robert W. Stone  
9 Robert W. Stone

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11  
12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on this 18th day of September 2024, I electronically transmitted the  
14 foregoing document to the Clerk's Office using the CM/ECF System, causing it to be electronically  
15 served on all attorneys of record.

16  
17 By /s/ Robert W. Stone  
18 Robert W. Stone  
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